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DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-817]

Ripe Olives from Spain: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on ripe olives from Spain.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Peter Zukowski, AD/CVD Operations Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3683 or (202) 482-0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on June 18, 2018, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of ripe olives from Spain.¹ On July 25, 2018, the ITC notified Commerce of its final determination pursuant to section

¹ See *Ripe Olives from Spain: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 28193 (June 18, 2018) (*Final Determination*).

735(b)(1)(A) of the Act that an industry in the United States is materially injured by reason of the LTFV imports of ripe olives from Spain.²

Scope of the Order

The merchandise covered by this order is ripe olives. For a complete description of the scope of the order, *see* the Appendix to this notice.

Antidumping Duty Order

On July 25, 2018, in accordance with sections 735(b)(1)(A) and 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of imports of ripe olives from Spain that are sold in the United States at LTFV.³ Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this antidumping duty order. Because the ITC determined that imports of ripe olives from Spain are materially injuring a U.S. industry, unliquidated entries of such merchandise from Spain, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of ripe olives from Spain. Antidumping duties will be assessed on unliquidated entries of ripe olives from Spain entered, or withdrawn from warehouse, for consumption on or after January 26,

² *See Notification* Letter from the ITC dated July 25, 2018 (ITC Letter).

³ *See* ITC Letter.

2018, the date of publication of the *Preliminary Determination*,⁴ but will not be assessed on entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to continue to suspend liquidation of all appropriate entries of ripe olives from Spain as described in the Appendix to this notice, which were entered, or withdrawn from warehouse, for consumption on or after January 26, 2018, the date of publication of the preliminary determination of this investigation in the *Federal Register*. These instructions suspending liquidation will remain in effect until further notice.

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require cash deposits equal to the amounts indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated antidumping duties on this subject merchandise, a cash deposit equal to the cash deposit rates listed below.⁵ The all-others rate applies to producers or exporters not specifically listed, as appropriate. For the purpose of determining cash deposit rates, the estimated weighted-average dumping margins for imports of subject merchandise have been adjusted, as appropriate, for estimated domestic subsidy pass-through rates calculated based on the final determination of the companion countervailing duty investigation of ripe olives from Spain.⁶

Provisional Measures

⁴ See *Ripe Olives from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 3677 (January 26, 2018) (*Preliminary Determination*).

⁵ See sections 736(a)(3) of the Act.

⁶ See *Final Determination*, 83 FR at 28194.

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request Commerce to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of ripe olives from Spain, Commerce extended the four-month period to six months.⁷ In the underlying investigation, Commerce published the preliminary determination on January 26, 2018. Therefore, the extended period, beginning on the date of publication of the *Preliminary Determination*, ended on July 24, 2018. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice,⁸ we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of ripe olives from Spain entered, or withdrawn from warehouse, for consumption after July 24, 2018, the date the provisional measures expired, through the day preceding the date of publication of the ITC's final injury determination in the *Federal Register*. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the *Federal Register*.

Estimated Weighted-Average Dumping Margins

The weighted-average antidumping duty margin percentages and cash deposit rates are as follows:

⁷ See *Preliminary Determination*, 83 FR at 3679.

⁸ See, e.g., *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016).

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (percent)⁹
Aceitunas Guadalquivir S.L.	17.45	17.46
Agro Sevilla Aceitunas S.COOP Andalusia	25.50	25.39
Angel Camacho Alimentacion S.L.	16.88	16.83
All-Others	20.04	19.98

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to ripe olives from Spain pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: July 25, 2018.

Gary Taverman,

Deputy Assistant Secretary

*for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

⁹ The cash deposit rate is equal to the calculated estimated weighted-average dumping margin adjusted for the appropriate subsidy offset(s).

Appendix

Scope of the Order

The products covered by this order are certain processed olives, usually referred to as “ripe olives.” The subject merchandise includes all colors of olives; all shapes and sizes of olives, whether pitted or not pitted, and whether whole, sliced, chopped, minced, wedged, broken, or otherwise reduced in size; all types of packaging, whether for consumer (retail) or institutional (food service) sale, and whether canned or packaged in glass, metal, plastic, multilayered airtight containers (including pouches), or otherwise; and all manners of preparation and preservation, whether low acid or acidified, stuffed or not stuffed, with or without flavoring and/or saline solution, and including in ambient, refrigerated, or frozen conditions.

Included are all ripe olives grown, processed in whole or in part, or packaged in Spain. Subject merchandise includes ripe olives that have been further processed in Spain or a third country, including but not limited to curing, fermenting, rinsing, oxidizing, pitting, slicing, chopping, segmenting, wedging, stuffing, packaging, or heat treating, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in Spain.

Subject merchandise includes ripe olives that otherwise meet the definition above that are packaged together with non-subject products, where the smallest individual packaging unit (*e.g.*, can, pouch, jar, etc.) of any such product – regardless of whether the smallest unit of packaging is included in a larger packaging unit (*e.g.*, display case, etc.) – contains a majority (*i.e.*, more than 50 percent) of ripe olives by net drained weight. The scope does not include the non-subject components of such product.

Excluded from the scope are: (1) Specialty olives¹⁰ (including “Spanish-style,” “Sicilian-style,” and other similar olives) that have been processed by fermentation only, or by being cured in an alkaline solution for not longer than 12 hours and subsequently fermented; and (2) provisionally

¹⁰ Some of the major types of specialty olives and their curing methods are:

- “Spanish-style” green olives: Spanish-style green olives have a mildly salty, slightly bitter taste, and are usually pitted and stuffed. This style of olive is primarily produced in Spain and can be made from various olive varieties. Most are stuffed with pimento; other popular stuffings are jalapeno, garlic, and cheese. The raw olives that are used to produce Spanish-style green olives are picked while they are unripe, after which they are submerged in an alkaline solution for typically less than a day to partially remove their bitterness, rinsed, and fermented in a strong salt brine, giving them their characteristic flavor.
- “Sicilian-style” green olives: Sicilian-style olives are large, firm green olives with a natural bitter and savory flavor. This style of olive is produced in small quantities in the United States using a Sevillano variety of olive and harvested green with a firm texture. Sicilian-style olives are processed using a brine-cured method, and undergo a full fermentation in a salt and lactic acid brine for 4 to 9 months. These olives may be sold whole unpitted, pitted, or stuffed.
- “Kalamata” olives: Kalamata olives are slightly curved in shape, tender in texture, and purple in color, and have a rich natural tangy and savory flavor. This style of olive is produced in Greece using a Kalamata variety olive. The olives are harvested after they are fully ripened on the tree, and typically use a brine-cured fermentation method over 4 to 9 months in a salt brine.
- Other specialty olives in a full range of colors, sizes, and origins, typically fermented in a salt brine for 3 months or more.

prepared olives unsuitable for immediate consumption (currently classifiable in subheading 0711.20 of the Harmonized Tariff Schedule of the United States (HTSUS)).

The merchandise subject to this order is currently classifiable under subheadings 2005.70.0230, 2005.70.0260, 2005.70.0430, 2005.70.0460, 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070, 2005.70.7000, 2005.70.7510, 2005.70.7515, 2005.70.7520, and 2005.70.7525 HTSUS. Subject merchandise may also be imported under subheadings 2005.70.0600, 2005.70.0800, 2005.70.1200, 2005.70.1600, 2005.70.1800, 2005.70.2300, 2005.70.2510, 2005.70.2520, 2005.70.2530, 2005.70.2540, 2005.70.2550, 2005.70.2560, 2005.70.9100, 2005.70.9300, and 2005.70.9700. Although HTSUS subheadings are provided for convenience and U.S. Customs purposes, they do not define the scope of the order; rather, the written description of the subject merchandise is dispositive.

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